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C O N F I D E N T I A L SARAJEVO 001869

SIPDIS

EUR/SCE (HYLAND, FOOKS), NSC FOR HELGERSON

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TAGS: PREL PGOV PINR PHUM KDEM BK

SUBJECT: BOSNIA - PROGRESS ON PRUD AGREEMENT SLOW AND SHAKY

REF: A. A. SARAJEVO 1728  
1B. B. SARAJEVO 1868  
1C. C. SARAJEVO 1847  
1D. D. SARAJEVO 1655

Classified By: Ambassador Charles English. Reasons 1.4 (b) and (d).

11. (C) SUMMARY: A month after the signing of the November 8 Prud Agreement (Ref A), the leaders of all three signatory parties continue to profess their support for the document. However, intra-party rifts, quibbling over details, continued concern over the element of the Agreement pertaining to Brcko, and bureaucratic obstacles have hindered progress on implementing any part of the Agreement. Party of Democratic Action (SDA) VP Bakir Izetbegovic has threatened to reassess his support for Prud, underscoring both the fragility of the Agreement and extant rifts within SDA. Bosniak and Serb representatives on the Commission for State Property have been unable to craft a unified text on the Law on State Property despite the agreement between SDA and SNSD at Prud. On Brcko, parties continue to call for a "constitutional law" despite the fact that such a law does not exist in Bosnian jurisprudence and, regardless, could not override the Constitution to guarantee Brcko access to the Constitutional Court. The debate since Prud over the census has been less contentious, but the census will be subject to a long and arduous bureaucratic process, and the Bosnian government has yet to settle the provision in the budget for returnees, a key SDA redline. We are encouraging party leaders to make tangible progress as quickly as possible -- particularly on defense property, as that process is already nearly complete -- so as to retain momentum on Prud and demonstrate to the public that its leaders are committed to implementing the Agreement. We also are working with our Quint partners to lobby Dodik and SNSD to return to their previous support for constitutional amendments on Brcko. END SUMMARY.

Party Leaders Continue to Endorse Prud ...  
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12. (C) A month after the signing of the November 8 Prud Agreement, leaders of all three signatory parties continue to assert their support for the Agreement. On December 12, SDA chairman Sulejman Tihic told Ambassador that SDA has created a commission for each element of the Agreement and that a high-ranking party official will chair each commission. Tihic and Croat Democratic Union (HDZ)-BiH chairman Dragan Covic, though, both expressed concern about the feasibility of sustaining momentum on Prud, especially with the holiday season approaching. Tihic noted the difficulty of negotiating one-on-one with Alliance of Independent Social Democrats (SNSD) chairman Milorad Dodik amid the current negative political atmosphere but insisted that he would

continue to try. In a December 10 exchange with us, Covic was more sanguine on the prospects of keeping Dodik engaged, although he also conveyed concern about Dodik as an interlocutor, particularly after Dodik's comments in response to Croatian President Stjepan Mesic's remarks in New York (Ref B). Dodik and two of his close advisors insisted to us that they too support Prud, expressing optimism particularly on the element pertaining to state property (Ref C).

... But Influential SDA VP Muses about Withdrawing Support

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¶3. (C) During a session of the state-level House of Representatives on December 3, SDA VP Bakir Izetbegovic announced -- amid heated debate on renaming several municipalities in the Republika Srpska (RS) to remove the prefix "Bosanski" -- that he would reassess his support for Prud because such "hatred for one's own country would be a poor message to send to returnees." (Note: Izetbegovic has told us several times that he and others in SDA agreed to support the element of Prud calling for a census with data on ethnicity, religion, and language only if the RS agreed to invest heavily in programs to support Bosniak refugee returns. End Note) Also at the December 3 session, the House of Representatives considered a demand from Haris Silajdzic's Party for BiH (SBlH) to move into urgent procedure a proposal -- intended to counter Prud -- that the state own all property that belonged to the former Yugoslavia or its ministerial subdivisions, as well as the Republic of Bosnia as an entity subdivision of Yugoslavia. According to the SBlH proposal, the state would grant use of that property to the entities as needed. SDA supported SBlH's proposal, leading to media speculation that SDA was backtracking from Prud. Indeed, Izetbegovic told the pro-Bosniak daily Dnevni Avaz that all Bosniaks would like to see the state own all property, but SDA is "resigned to the fact" that such a proposal would not garner the requisite majority in parliament. He compared the state property debate to SBlH's desire to abolish the RS, noting that SDA also supports abolishing the entities but is aware that such an outcome can never happen.

State Property Reaches a Stalemate

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¶4. (SBU) The Commission for State Property met on December 2 and failed to reach an agreement on a unified text of the Law on State Property in accordance with Prud. Bosniak representatives in the Commission tried to suspend discussion on this law until after the vote in the state-level House of Representatives on the SBlH draft law. The RS representatives re-introduced their own draft law, which was inconsistent with the principles of Prud, of which they claimed to be unaware. In addition, new points of contention arose at the December 2 session. For example, even though State Property Commission members had previously agreed that the state would own all foreign immovable property under territorial/functional principles, the RS representatives argued that all foreign property except Embassies should be divided for the primary benefit of the entities and Brcko District. The December 2 session also suggested that the parties interpret Prud differently with regard to which institution and what mechanism would determine which property the state needs to exert its competencies. These differences suggest that the Commission will not make the 20-day deadline set forth by the Council of Ministers (CoM) to forge a draft law on state property. The Commission will hold another session on December 17, at which it will consider proposals from the Commission Chairman, the RS representatives, and the Bosniak representatives.

Brcko Law a Non-Starter

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¶5. (C) The three parties to the Prud Agreement initially trumpeted the element suggesting a "constitutional law" on Brcko (Ref D) as a suitable compromise and a means to resolving this "5 2" requirement. Our contacts in SDA have

since walked back from that assessment, after extensive engagement from us and a conversation between SDA VP Mirsad Kebo and a Constitutional Court judge confirming that only constitutional amendments could guarantee Brcko access to the Constitutional Court. Tihic, however, expressed concern to Ambassador that if he pushed Dodik for constitutional amendments now, Dodik would accuse him of walking back from Prud and would be a more challenging interlocutor on other aspects of the Agreement. Both he and Covic, though, told us that they understand the necessity of constitutional amendments and agreed to support them. Our SNSD contacts, however, continue to insist on a constitutional law. RS National Assembly Speaker Igor Radojicic told us that the SNSD executive board's executive position is to pass a law now and work toward constitutional amendments later (Ref C).

#### Census Mired in Bureaucracy

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¶ 16. (C) The element of Prud pertaining to the census is evolving, but bureaucratic obstacles are hindering more rapid progress. The CoM on November 11 discussed the census, concluding that 2011 should be the target year for conducting it. The CoM agreed, as was outlined in Prud, that the 1991 census would serve as the basis for ethnic representation in all state, entity, cantonal, and municipal institutions until ¶ 2014. The CoM tasked the Bosnian Statistical Agency to start the official preparations for the census, to include data on ethnicity, religion, and language. The CoM tasked the Statistical Agency to submit to the CoM within 15 days the proposed decision on the formation of an inter-agency working group to draft the law on the census, but the Statistical Agency has not yet completed this task.

#### Possible Opening on Defense Property

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¶ 17. (C) The element of Prud pertaining to immovable defense property is closest to implementation. A resolution on defense property requires legislation, inventory, and a transfer agreement. The first two items are complete, and NATO is close to finishing the third, which will then require the approval of both entities and the state-level Council of Ministers. We are encouraging party leaders to reach an agreement as quickly as possible on defense property, both to ensure a quick win on Prud and to test Dodik's sincerity on respecting the Agreement. Tihic expressed concern to Ambassador that a single law covering both defense and state property might be necessary, to which Ambassador replied that the two processes are already separate and that the law on defense provides for its own resolution. Covic was more positive with us, pledging to support our proposed approach to defense property and to raise it with Tihic soon.

#### Comment

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¶ 18. (C) We continue to applaud the three signatories to the Prud Agreement for their willingness to discuss contentious issues and work toward a compromise. We are skeptical, however, of the feasibility of implementing it in the near future. Prud continues to face opposition from other parties, which could create obstacles to passing these items in parliament. Tihic in particular could also be vulnerable to efforts by Silajdzic to play the Bosniak nationalist card, especially on state property and the census. Moreover, even within the three parties that support Prud, the devil is in the details. Each element of Prud faces a challenge as Bosnia's governing institutions try to sort out the specifics needed for implementation. If Bosnian leaders do not make tangible progress soon, the potential exists -- as Bakir Izetbegovic's comments underscore -- for backsliding by one or more parties or factions within parties as the initial euphoria surrounding Prud gives way to a return to "politics as usual." There is a clear opening on defense property, and we are encouraging the three leading parties to take advantage of this opportunity. We are also working with our Quint partners and OHR to secure support for constitutional

amendments for Brcko. At a December 12 Quint luncheon hosted by Ambassador, there was agreement that the Quint, EU, and OHR should conduct a concerted lobbying effort, coupled with some creative packaging, to bring Dodik and SNSD back to their previous support for Brcko amendments. Continued pressure on them to move forward on these issues will be key to ensuring that Prud, for all its symbolic importance, does not fizzle in the implementation stage.

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